

## **Random Testing FAQs**

### **Q. How are random selections done?**

- A.** The selection of employees for random alcohol and controlled substances testing is made by a scientifically valid method, such as a random number table or a computer-based random number generator that is matched with employees' Social Security numbers, payroll identification numbers, or other comparable identifying numbers.

### **Q. How often can an employee be selected for testing?**

- A.** Each employee selected for random alcohol and controlled substances testing shall have an equal chance of being tested each time selections are made. Employees may be selected several times in a row or not selected the entire year.

### **Q. Can an employee be excused from a random test?**

- A.** Each employee selected for testing shall be tested during the selection period. Employees **cannot** be excused from a random test unless an allowable explanation can be documented such as they are no longer employed, they are deceased, or they are on an extended leave of absence during the testing period.

### **Q. When do you notify the employee of the random test?**

- A.** It is the employer's responsibility to ensure that random alcohol and controlled substances tests conducted are unannounced. The employee cannot have advance notice of the test – s/he should not be notified of the test unless s/he can report immediately for the test.

### **Q. How frequently must random testing be done?**

- A.** The employer shall ensure that the dates for administering random alcohol and controlled substances tests are spread reasonably throughout the calendar year.

### **Q. Once notified, how much time does the employee have to report for the random test?**

- A.** It is required that each employee who is notified of selection for random alcohol and/or controlled substances testing must proceed to the test site immediately.

### **Q. What if an employee is subject to random testing for both a CDL and a Testing Designated Position (TDP)?**

- A.** Two separate pools will be established containing covered employees who are subject to the same testing type, thus both a CDL pool and a TDP pool will be established. Covered employees are subject to testing to either or both pools at any time.

### **Q. What procedures should be followed to keep the random pool list updated?**

- A.** For CDL covered positions any change to the pool list must be communicated to Midwest Toxicology's scheduling office in Lebanon and to the Employee Relations Division of the State Personnel Department as soon as the change occurs. Changes consist of new hire employees, terminated employees (voluntary or involuntary) and employees who have transferred in/out of the agency and/or a CDL position. The "Pool Add/Delete Form" is used to record all changes to the CDL pool. The form may be found in the Forms section of the Drug and Alcohol Testing web page.

For TDP covered positions pool lists are updated on a quarterly basis. The agency DER should provide a complete listing of employees in TDP covered positions by the 15<sup>th</sup> of the month prior to the start of a new calendar quarter. The Excel spreadsheet needs to be sent to Midwest Toxicology's Indianapolis office and to the Employee Relations Division of the State Personnel Department.

**Q. What procedures should be followed if the DER, who normally would be given the random list ahead of time, is subject to and selected for random testing?**

- A.** Midwest will contact a pre-designated agency contact to facilitate getting the DER tested prior to him/her having any knowledge of the next random test day. The agency contact should follow the steps below:
- Check the schedule of the DER to make sure s/he can stop what s/he is doing and be able to report to the collection site for a test prior to proceeding with the rest of these instructions. If s/he isn't able to report immediately, do not make the arrangements until you know s/he can report.
  - Locate a collection kit and Off-site Collection Form.
  - Contact the collection site to find out if an appointment is required prior to sending the DER to the collection site.
  - Fill out an Off-site Collection Form and fax it to Midwest.
  - Verbally notify the DER of the random selection and instruct him/her to report for the test.

**Q. What do I do if an employee is not available the day of onsite collections?**

- A.** If there are only one or two people that were not available to get tested, as soon as possible, send them to your local collection site with one of the testing kits. Be sure to use an On-site Collection Form when sending them to the collection site.

# **Protocol & Reminders - On-site Services**

**For all of the situations described below, please follow the suggested protocol.**

1. **DERs** (Designated Employer Representatives) are required to be on-site during the collection process and will need to assist with the following:
  - a. Notify the employee, advising him/her to report to Midwest Toxicology's mobile unit at the designated time the unit is scheduled to be on-site.
  - b. Go over the random list with the collectors before any collections begin. This is to determine if anyone on the list will not be available for testing that day.
  - c. Inform the collectors if other testing is needed, such as pre-employment tests.
  - d. Work with the collectors regarding any problems related to collection issues such as: shy bladders, refusals to test, or observed collections. (See additional information below on these issues.)
  - e. Notify Midwest Toxicology's scheduling office prior to the on-site visit if you will not be available the day Midwest is on-site. Plan to provide the name of an alternate person **who will have the authority to execute DER responsibilities** so the collectors know who to contact upon arrival.
2. **Shy Bladder Situations** – When an employee is unable to provide 45 ml of urine,
  - a. S/he will be allowed up to three (3) hours to provide the specimen.
  - b. S/he may have up 40 ounces of fluids during this waiting period.
  - c. S/he is required to be kept under supervision during the waiting period.
  - d. If, at the end of three (3) hours, s/he has been unable to provide a valid specimen, the collector will provide instructions on the next steps or the DER will be directed to call the Indianapolis office for instructions. The employee will need to be referred for a medical evaluation and Midwest can provide a form for this procedure.
  - e. If Midwest's mobile unit is not able to stay the full three (3) hours waiting for the him/her to provide a specimen, Midwest will assist with making arrangements for the collection to be completed at the designated local collection site.
3. **Refusal to Test Situations**
  - a. The following are considered a refusal to test:
    1. Failing to appear for any test within a reasonable time after being directed to do so.
    2. Failing to remain at the testing site until the testing process is completed.
    3. Failure to provide a breath sample, saliva sample or urine sample as directed.
    4. Failure to permit, if the situation requires, the observation or monitoring of providing a urine specimen.
    5. Failure to provide a urine, breath or saliva specimen within required time frames may be considered a refusal. If an employee cannot provide a sufficient quantity of urine or breath, s/he will be directed to be evaluated by a physician of the employer's choice. If the physician cannot find a legitimate medical explanation for the inability to provide a specimen (either breath or urine), it will be considered a refusal to test. In that circumstance the employee has violated one of the prohibitions of the regulations.

6. Failure or decline to take an additional drug test the employer or collector has directed him/her to take.
7. Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER as part of a “shy bladder” or “insufficient breath” situation.
8. Failure to cooperate with any part of the testing process and/or conduct that would obstruct the proper administration of a test. (e.g., refusal to empty pockets when so directed by the collector, confrontational behavior that disrupts the collection process.)
9. For an observed collection, failure to follow the observer’s instruction to raise the clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process.
10. Possess or wear a prosthetic or other device that could be used to interfere with the collection process.
11. Admission to the collector or MRO that the specimen has been adulterated or substituted.
12. A report from the MRO that there is a verified adulterated or substituted test result.
13. Refusal to sign step two (2) of the alcohol testing form.
- b. Any situations that fall under the refusal to test rules need to be documented.
- c. A Refusal to Test form must be completed and submitted to Midwest’s Indianapolis office.
- d. A Refusal to Test form can be obtained from Midwest’s collector or the Indianapolis office.

#### **4. Observed Collections**

- a. Midwest collectors will follow DOT rules as they pertain to observed collections.
- b. The following situations require observed collections:
  1. If the employee provides a specimen that does not meet the correct temperature range, a second collection will be required under direct observation by a collector of the same gender. Both specimens must be sent to the laboratory.
  2. The collector observes behavior clearly indicating an attempt to alter or substitute a specimen.
  3. Return-to-duty and follow-up tests **may** be observed collections.

## **Other DER Reminders**

1. ID Requirements – Employees to be tested must have a photo ID in order for Midwest to collect from them. If the employee does not have one you, as the DER, will be required to identify him/her prior to the collection.
2. Prescription guidance – Remind employees that they are **not** to provide any prescription (medical) information at the time of collection. The collector is not allowed to document prescription or answer questions about their prescriptions. The employee will be contacted by the MRO (Medical Review Officer) and have the opportunity to discuss and provide verification of their prescribed medications should their test result be positive.
3. Complete proper documentation on the Random Report to verify that all of those listed on the report did complete testing within the testing period.
4. Check your supply of testing kits on a regular basis and use the re-order form located in the Forms section to request additional test kits. You can also call or e-mail Midwest's Indianapolis office to re-order kits.
5. Notification period – **How soon can you inform employees of a random selection?** Never inform an employee that they are selected for a random until shortly before s/he needs to report for collection. For on-site collections, this should be shortly before Midwest arrives. If the employee will be reporting to a collection site and an appointment needs to be made, you should make the appointment for him/her and only notify him/her right before they are to go.
6. Collections done on-site at your facility not using a mobile unit – our collector will need assistance with the following:
  - a. A restroom area and a place to complete paperwork. Preferably the two areas will be close together.
  - b. The restroom area will have to be secured during the collection. Other people will not be able to use the restroom during the collection.
  - c. A private area will need to be available for breath alcohol tests.

### **Procedures to follow if you have employees who are not tested the day the collectors are on-site:**

- If there are several employees that were not available to get tested, make arrangements for Midwest to return at a later date to test those individuals. Contact the Lebanon scheduling office to make those arrangements.
- If there are only one or two people that were not available to get tested, as soon as possible, send them to your local collection site with one of the testing kits. Be sure to use an On-site Collection Form when sending them to the collection site.

## **CDL-ONLY Applicable**

### **Q. How many random tests must the employer do during a calendar year?**

- A.** For CDL testing purposes, the State randomly selects a sufficient number of drivers for testing during each calendar year to equal an annual rate not less than the minimum annual percentage rate for random alcohol and controlled substances testing determined by the FMCSA Administrator.

FMCSA currently requires a 50% rate for drug and a 10% rate for alcohol. These are minimum rates and the employer may test above these if desired.

### **Q. Once notified, how much time does the driver have to report for the random test?**

- A.** It is required that each driver who is notified of selection for random alcohol and/or controlled substances testing proceeds to the test site immediately; provided, however, that if the driver is performing a safety-sensitive function, other than driving a commercial motor vehicle, at the time of notification, the employer shall instead ensure that the driver ceases to perform the safety-sensitive function and proceeds to the testing site as soon as possible.

There are no rules that state a time frame to report for the test – “Immediately” means what ever is deemed reasonable for the employee to report to the collection site once s/he has been notified.

### **Q. When can random testing be conducted?**

- A. Rule:** A driver shall **only** be tested for alcohol while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.

The rules do not specify when a drug test can be conducted. It is accepted by the FMCSA that the employer may conduct drug tests at any time. This does allow the employer to try to contact the driver, who is not on duty at the time, and request that s/he report for a random drug test only. This is most commonly done when the employee is not on a daily work schedule or doesn't report into the employer's place of business on a regular basis. Substitute drivers for school districts often fall into this category. It is highly recommended that the employer communicate this policy to their drivers should they be subject to being called in when they are not working.

### **Q. What if a driver is subject to random testing of more than one DOT agency for the same employer?**

- A. Rule:** If a given driver is subject to random alcohol or controlled substances testing under the random alcohol or controlled substances testing rules of more than one DOT agency for the same employer, the driver shall be subject to random alcohol and/or controlled substances testing at the annual percentage rate established for the

calendar year by the DOT agency regulating more than 50 percent of the driver's function.

**Q. What if an employee is subject to random testing under multiple DOT agencies?**

- A.** The employer may either establish separate pools containing covered employees who are subject to the same testing rate; or establish one pool and randomly select such employees at the highest minimum rate by any DOT agency to which the employee is subject.

**Q. How are we to handle alcohol tests that couldn't be conducted at the on-site visit because the driver wasn't driving?**

- A.** Rules state that a driver must be on-duty for a breath alcohol test to be performed.
- If you choose to call a driver in that isn't on duty to perform the random test when Midwest is on-site, you can only test the driver for drugs if the employee was selected for both drug and alcohol tests. This procedure is recommended for drivers who do not drive frequently, such as substitute drivers.
  - Your options to complete the alcohol test include:  
Wait until the next time the driver is driving, then notify him/her to report to the collection site for the random alcohol test. Be sure to use a testing notification form if you do this.
  - If the driver does not drive anytime during the remaining testing period, notify Midwest's scheduling office that the driver didn't drive and document on the random selection list that the driver did not drive; therefore, you could not do the alcohol test.